

AMENDED IN SENATE JULY 23, 2009

AMENDED IN SENATE JUNE 16, 2009

AMENDED IN ASSEMBLY MAY 18, 2009

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1235

Introduced by Assembly Member Hayashi

February 27, 2009

An act to ~~add Section 130061.6 to~~ *amend Section 130061.5 of the Health and Safety Code*, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1235, as amended, Hayashi. Hospitals: seismic safety.

Existing law, the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, establishes, under the jurisdiction of the Office of Statewide Health Planning and Development, a program of seismic safety building standards for certain hospitals constructed on and after March 7, 1973. Existing law authorizes the office to assess an application fee for the review of facilities design and construction, and requires that full and complete plans be submitted to the office for review and approval.

Existing law requires that, after January 1, 2008, any general acute care hospital building that is determined to be a potential risk of collapse or pose significant loss of life be used only for nonacute care hospital purposes, except that the office may grant a 5-year extension under prescribed circumstances. Existing law also allows the office to grant

an additional extension to the January 2008 deadline for certain general acute care hospital buildings owned or operated by a county, city, or county and city that has requested an extension of this deadline by January 1, 2009, if specified conditions are met, *including a requirement that the hospital owner submit, by January 1, 2010, a facility master plan with prescribed information for specified buildings that the hospital intends to replace by a specified date.*

~~This bill would also allow the office to grant the additional extension for extend, for a hospital building that is owned or operated by the County of Alameda on the Alameda County Medical Center's Fairmont Campus, if the board of supervisors files a declaration that meets specified requirements the deadline for submitting a facility master plan until July 1, 2010.~~ This bill would state the findings and declarations of the Legislature regarding the need for special legislation.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 130061.5 of the Health and Safety Code
- 2 is amended to read:
- 3 130061.5. (a) The Legislature finds and declares the following:
- 4 (1) By enacting this section, the Legislature reinforces its
- 5 commitment to ensuring the seismic safety of hospitals in
- 6 California. In order to meet that commitment, this section provides
- 7 a mechanism for hospitals that lack the financial capacity to retrofit
- 8 Structural Performance Category-1 (SPC-1) buildings by 2013 to,
- 9 instead, redirect available capital and borrowing capacity to replace
- 10 those building by 2020. The mechanism is intended to allow these
- 11 hospitals to meet the seismic requirements, and provide state
- 12 agencies and the public with more timely and detailed information
- 13 about the progress these hospitals are making toward seismic safety
- 14 compliance.
- 15 (2) This section requires hospitals seeking this assistance to
- 16 demonstrate that their financial condition does not allow them to
- 17 retrofit these buildings by 2013, and requires them to meet
- 18 specified benchmarks in order to be eligible for the extended
- 19 timelines set forth in this section. Failure to meet any of these
- 20 benchmarks shall result in the hospital being noncompliant and
- 21 subject the hospital to loss of licensure.

1 (3) It is the intent of the Legislature to ensure the continuation
2 of services in medically underserved communities in which the
3 closure of the hospital would have significant negative impacts on
4 access to health care services in the community.

5 (4) It is also the intent of the Legislature that this section be
6 implemented very narrowly to target only facilities that are
7 essential providers in underserved communities and that lack the
8 financial capacity to retrofit SPC-1 buildings by 2013.

9 (b) A hospital owner may meet the requirements of subdivision
10 (a) of Section 130060 by replacing all of its buildings subject to
11 that subdivision by January 1, 2020, if it meets all of the following
12 conditions:

13 (1) The hospital owner has requested an extension of the
14 deadline described in subdivision (a) or (b) of Section 130060.

15 (2) (A) The office certifies that the hospital owner lacks the
16 financial capacity to meet the requirements of subdivision (a) of
17 Section 130060 for that building. In order to receive the
18 certification, the hospital owner shall file with the office by January
19 1, 2009, financial information as required by the office. This
20 information shall include a schedule demonstrating that, as of the
21 end of the hospital owner's most recent fiscal year for which the
22 hospital owner has filed its annual financial data with the office
23 by July 1, 2007, the hospital owner's annual financial data for that
24 fiscal year show that the hospital owner meets all of the following
25 financial conditions:

26 (i) The owner's net long-term debt to capitalization ratio, as
27 measured by the ratio of net long-term debt to net long-term debt
28 plus equity, was above 60 percent.

29 (ii) The owner's debt service coverage, as measured by the ratio
30 of net income plus depreciation expense plus interest expense to
31 current maturities on long-term debt plus interest expense, was
32 below 4.5.

33 (iii) The owner's cash-to-debt ratio, as measured by the ratio
34 of cash plus marketable securities plus limited use cash plus limited
35 use investments to current maturities on long-term debt plus net
36 long-term debt, was below 90 percent.

37 (B) The office shall certify that a hospital owner applying for
38 relief under this subdivision meets each of these financial
39 conditions. For the purposes of this subdivision, a hospital owner
40 shall be eligible for certification only if the annual financial data

1 required by this paragraph for the hospital owners and all of its
2 hospital affiliates, considered in total, meets all of these financial
3 conditions. For purposes of this section, “hospital affiliate” means
4 any hospital owned by an entity that controls, is controlled by, or
5 is under the common control of, directly or through intermediate
6 entity, the entity that owns the specified hospital. The applicant
7 hospital owner shall bear all costs for review, but not to exceed
8 the costs of review, of its financial information.

9 (3) The hospital owner files with the office, by January 1, 2009,
10 a declaration that the hospital for which the hospital owner is
11 seeking relief under this subdivision shall satisfy all of the
12 following conditions:

13 (A) The hospital shall maintain a contract with the California
14 Medical Assistance Commission (CMAC) under the selective
15 provider contracting program, unless in an open area as established
16 by CMAC.

17 (B) The hospital shall maintain at least basic emergency medical
18 services if the hospital provided emergency medical services at
19 the basic or higher level as of July 1, 2007.

20 (C) The hospital meets any of the following criteria:

21 (i) The hospital is located within a Medically Underserved Area
22 or a Health Professions Shortage Area designated by the federal
23 government pursuant to Sections 330 and 332 of the federal Public
24 Health Service Act (42 U.S.C. Secs. 254b and 254e).

25 (ii) The office determines, by means of a health impact
26 assessment, that removal of the building or buildings from service
27 may diminish significantly the availability or accessibility of health
28 care services to an underserved community.

29 (iii) The CMAC determines that the hospital is essential to
30 providing and maintaining Medi-Cal services in the hospital’s
31 service area.

32 (iv) The hospital demonstrates that, based on annual utilization
33 data submitted to the office for 2006 or later, the hospital had in
34 one year over 30 percent of all discharges for either Medi-Cal or
35 indigent patients in the county in which the hospital is located.

36 (4) ~~The Subject to subdivision (c),~~ the hospital owner submits,
37 by January 1, 2010, a facility master plan for all the buildings that
38 are subject to subdivision (a) of Section 130060 that the hospital
39 intends to replace by January 1, 2020. The facility master plan
40 shall identify at least all of the following:

1 (A) Each building that is subject to subdivision (a) of Section
2 130060.

3 (B) The plan to replace each building with buildings that would
4 be in compliance with subdivision (a) of Section 130065.

5 (C) The building or buildings to be removed from acute care
6 service and the projected date or dates of that action.

7 (D) The location for any new building or buildings, including,
8 but not limited to, whether the owner has received a permit for
9 that location. The replacement buildings shall be planned within
10 the same service area as the buildings to be removed from service.

11 (E) A copy of the preliminary design for the new building or
12 buildings.

13 (F) The number of beds available for acute care use in each new
14 building.

15 (G) The timeline for completed plan submission.

16 (H) The proposed construction timeline.

17 (I) The proposed cost at the time of submission.

18 (J) A copy of any records indicating the hospital governing
19 board's approval of the facility plan.

20 (5) By January 1, 2013, the hospital owner submits to the office
21 a building plan that is deemed ready for review by the office, for
22 each building.

23 (6) By January 1, 2015, the hospital owner receives a building
24 permit to begin construction, for each building that the owner
25 intends to replace pursuant to the master plan.

26 (7) Within six months of receipt of the building permit, the
27 hospital owner submits a construction timeline that identifies at
28 least all of the following:

29 (A) Each building that is subject to subdivision (a) of Section
30 130060.

31 (B) The project number or numbers for replacement of each
32 building.

33 (C) The projected construction start date or dates and projected
34 construction completion date or dates.

35 (D) The building or buildings to be removed from acute care.

36 (E) The estimated cost of construction.

37 (F) The name of the contractor.

38 (8) Every six months thereafter, the hospital owner reports to
39 the office on the status of the project, including any delays or

1 circumstances that could materially affect the estimated completion
2 date.

3 (9) The hospital owner pays to the office an additional fee, to
4 be determined by the office, sufficient to cover the additional cost
5 incurred by the office for maintaining all reporting requirements
6 established under this section, including, but not limited to, the
7 costs of reviewing and verifying the financial information
8 submitted pursuant to paragraph (2). This additional fee shall not
9 include any cost for review of the plans or other duties related to
10 receiving a building or occupancy permit.

11 (c) ~~The~~ *(1) Subject to paragraph (2), the* office may also
12 approve an extension of the deadline described in subdivision (a)
13 or (b) of Section 130060 for a general acute care hospital building
14 that is classified as a nonconforming SPC-1 building and is owned
15 or operated by a county, city, or county and city that has requested
16 an extension of this deadline by June 30, 2009, if the owner files
17 a declaration with the office stating that as of the date of that filing
18 the owner lacks the ability to meet the requirements of subdivision
19 (a) of Section 130060 for that building pursuant to subdivision (b)
20 of that section. The declaration shall state the commitment of the
21 hospital to replace those buildings by January 1, 2020, with other
22 buildings that meet the requirements of Section 130065 and shall
23 meet the requirements of paragraphs (4) to (9), inclusive, of
24 subdivision (b).

25 *(2) Notwithstanding paragraph (4) of subdivision (b) and this*
26 *subdivision, a general acute care hospital building that is classified*
27 *as a nonconforming SPC-1 building and is owned and operated*
28 *by the County of Alameda on the Alameda County Medical Center's*
29 *Fairmont Campus shall have until July 1, 2010, to meet the*
30 *requirements of paragraph (4) of subdivision (b).*

31 (d) A hospital filing a declaration pursuant to this section but
32 failing to meet any of the deadlines set forth in this section shall
33 be deemed in violation of this section and Section 130060, and
34 shall be subject to loss of licensure.

35 ~~SECTION 1. Section 130061.6 is added to the Health and~~
36 ~~Safety Code, to read:~~

37 ~~130061.6. (a) Notwithstanding subdivision (c) of Section~~
38 ~~130061.5 and in lieu of the extension authorized pursuant to that~~
39 ~~subdivision, the office may also approve an extension of the~~
40 ~~deadline described in subdivision (a) or (b) of Section 130060 for~~

1 a general acute care hospital building that is classified as a
2 nonconforming SPC-1 building and is owned or operated by the
3 County of Alameda on the Alameda County Medical Center's
4 Fairmont Campus, if the board of supervisors of Alameda County
5 files a declaration with the office stating that, as of the date of that
6 filing, the County of Alameda lacks the ability to meet the
7 requirements of subdivision (a) of Section 130060 for that building
8 pursuant to subdivision (b) of that section. The declaration shall
9 state the commitment of the hospital to replace those buildings by
10 January 1, 2020, with other buildings that meet the requirements
11 of Section 130065 and shall meet all of the following requirements:

12 (1) The hospital owner submits, by June 1, 2010, a facility
13 master plan for all the buildings that are subject to subdivision (a)
14 of Section 130060 that the hospital intends to replace by January
15 1, 2020. The facility master plan shall identify at least all of the
16 following:

17 (A) Each building that is subject to subdivision (a) of Section
18 130060.

19 (B) The plan to replace each building with buildings that would
20 be in compliance with subdivision (a) of Section 130065.

21 (C) The building or buildings to be removed from acute care
22 service and the projected date or dates of that action.

23 (D) The location for any new building or buildings, including,
24 but not limited to, whether the owner has received a permit for
25 that location. The replacement buildings shall be planned within
26 the same service area as the buildings to be removed from service.

27 (E) A copy of the preliminary design for the new building or
28 buildings.

29 (F) The number of beds available for acute care use in each new
30 building.

31 (G) The timeline for completed plan submission.

32 (H) The proposed construction timeline.

33 (I) The proposed cost at the time of submission.

34 (J) A copy of any records indicating the hospital governing
35 board's approval of the facility plan.

36 (2) By June 1, 2013, the hospital owner submits to the office a
37 building plan that is deemed ready for review by the office, for
38 each building.

1 ~~(3) By June 1, 2015, the hospital owner receives a building~~
2 ~~permit to begin construction, for each building that the owner~~
3 ~~intends to replace pursuant to the master plan.~~

4 ~~(4) Within six months of receipt of the building permit, the~~
5 ~~hospital owner submits a construction timeline that identifies at~~
6 ~~least all of the following:~~

7 ~~(A) Each building that is subject to subdivision (a) of Section~~
8 ~~130060.~~

9 ~~(B) The project number or numbers for replacement of each~~
10 ~~building.~~

11 ~~(C) The projected construction start date or dates and projected~~
12 ~~construction completion date or dates.~~

13 ~~(D) The building or buildings to be removed from acute care.~~

14 ~~(E) The estimated cost of construction.~~

15 ~~(F) The name of the contractor.~~

16 ~~(5) Every six months thereafter, the hospital owner reports to~~
17 ~~the office on the status of the project, including any delays or~~
18 ~~circumstances that could materially affect the estimated completion~~
19 ~~date.~~

20 ~~(6) The hospital owner pays to the office an additional fee, to~~
21 ~~be determined by the office, sufficient to cover the additional cost~~
22 ~~incurred by the office for maintaining all reporting requirements~~
23 ~~established under this section, including, but not limited to, the~~
24 ~~costs of reviewing and verifying the financial information~~
25 ~~submitted pursuant to paragraph (2) of subdivision (b) of Section~~
26 ~~130061.5. This additional fee shall not include any cost for review~~
27 ~~of the plans or other duties related to receiving a building or~~
28 ~~occupancy permit.~~

29 ~~(b) A hospital filing a declaration pursuant to this section but~~
30 ~~failing to meet any of the deadlines set forth in this section shall~~
31 ~~be deemed in violation of this section, and Sections 130060 and~~
32 ~~130061.5, and shall be subject to loss of licensure.~~

33 SEC. 2. The Legislature finds and declares that a special law
34 is necessary and that a general law cannot be made applicable
35 within the meaning of Section 16 of Article IV of the California
36 Constitution because of the following unique circumstances:

37 The inability of the County of Alameda to comply with the
38 deadlines imposed by Senate Bill 1953 (Statutes of 1994) and
39 Senate Bill 306 (Statutes of 2007) will result in a loss of health

- 1 care capacity that may not be provided by another acute care
- 2 rehabilitation center within a reasonable proximity of the campus.

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